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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 CURTIS L. DOWNING,

Case No. 2:16-cv-02632-RFB-PAL

8 Plaintiff,

9 v.

ORDER

10 JO GENTRY, et al.,

(Notices– ECF Nos. 44, 46)

11 Defendants.

12 Before the court are Defendants’ Notice Concerning Defendant “Navatono” (ECF No. 44)
13 and Notice of Under Seal Submission of Last Known Address (ECF No. 46). These Notices are
14 referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR IB 1-3 and 1-7 of the
15 Local Rules of Practice.

16 Plaintiff Curtis L. Downing’s is a pro se prisoner in the custody of the Nevada Department
17 of Corrections (“NDOC”) at the Southern Desert Correctional Center (“Southern Desert”). He has
18 received permission to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915 and LSR
19 1-1 of the Local Rules of Practice. Order (ECF No. 16). Mr. Downing commenced this action on
20 November 14, 2016, by filing a Complaint (ECF No. 1) alleging civil rights violations pursuant to
21 28 U.S.C. § 1983. The court reviewed the complaint and determined that it stated four plausible
22 claims: (1) a procedural due process claim naming defendants Ortega, Gentry, Lamby, Adams,
23 and Dreesen; (2) a retaliation claim regarding administrative segregation naming defendants
24 Ortega, Gentry, Adams, and Dreesen; (3) a retaliation claim regarding Downing’s TV/self-
25 representation naming defendants Navatono, Akash, Burnside, and S&E John Doe; and (4) an
26 access to courts claim naming defendants Smith, Contreras, Knatz, Kerby, Das, Rodarte, Worthey,
27 Kobrick, Hochmann, Leos, King, Adams, and Dreesen. Screening Order (ECF No. 6).

1 Summons were recently issued to (1) Joshua Oretga, (2) Minor Adams, (3) Subhabrata
2 Das, (4) Tyler Hochmann, (5) Eyvi Rodarte, (6) Ana Leos, (7) Brian Kerby, and (8) Angel
3 Contreras. Oct. 23, 2018 Order (ECF No. 40). The Clerk of Court mailed Mr. Downing eight
4 USM-285 forms along with instructions for completing the form. Downing was ordered to
5 complete the USM-285 forms and mail the forms to the United States Marshal (“USM”) to attempt
6 service at these defendants’ last known addresses, which defense counsel submitted under seal.
7 The court also extended the deadline for Downing to complete service of process until December
8 24, 2018.

9 In addition, the court ordered the Nevada Office of the Attorney General (“Attorney
10 General”) to advise whether the new information Downing provided for defendant “Navatono”
11 would now allow the defendant to be identified and, if so, whether service will be accepted on his
12 behalf. Order (ECF No. 40) at 6. “If this defendant can be identified but the Attorney General
13 cannot accept service, the Attorney General shall file the last known address of this defendant if
14 this information is known, under seal, without serving Mr. Downing with the address.” *Id.*

15 The Attorney General filed two notices on November 6, 2018. The Notice Concerning
16 Defendant “Navatono” (ECF No. 44) informs Downing and the court that the individual sued as
17 “Navatono” may be Jose M. Navarette, a former employee of the Nevada Department of
18 Corrections. As such, the Attorney General filed the Notice of Under Seal Submission of Last
19 Known Address (ECF No. 46) further informing Downing that it submitted Jose M. Navarette’s
20 last known address of under seal pursuant to this court’s Order. *See* Sealed Submission of Last
21 Known Address (ECF No. 45).

22 Based on the new information submitted by the Attorney General, the court will instruct
23 the Clerk of Court to issue summons to Jose M. Navarette and provide the USM with the sealed
24 addresses to attempt service. The Clerk shall mail Downing one (1) blank USM-285 form along
25 with instructions for completing the form. Downing shall have until **November 23, 2018**, to mail
26 the USM the completed form, not including an address.¹ If the USM is unable to serve any

27 ¹ Downing is advised that the mailing address to send the USM-285 forms is:
28 U.S. Marshal Service

1 defendant(s) at his or her last known address and Mr. Downing wishes to have service attempted
2 again, he must file a timely motion specifying a more detailed name and/or address for that
3 defendant(s), or whether some other manner of service should be attempted. Pursuant to Rule
4 4(m), Downing must comply with the court's Orders by completing service by **December 24,**
5 **2018.**² Failure to complete service by that deadline will result in a recommendation to the district
6 judge that any unserved defendant be dismissed without prejudice.

7 Accordingly,

8 **IT IS ORDERED:**

- 9 1. The Clerk of Court shall ISSUE SUMMONS for Jose M. Navarette, and deliver the
10 same to the USM for service along with a copy of this Order, Complaint (ECF No. 7),
11 and Sealed Submission of Last Known Address (ECF No. 45).
- 12 2. The Clerk of Court shall MAIL Mr. Downing one (1) USM-285 form along with
13 instructions for completing the form and a copy of this Order.
- 14 3. By **November 23, 2018**, the USM must receive Mr. Downing's completed USM-285
15 forms via mail to attempt service.
- 16 4. Once the USM-285 form is received, the USM shall attempt service on Jose M.
17 Navarette at the address listed in the Sealed Submission of Last Known Address (ECF
18 No. 45).
- 19 5. After attempting service, the USM shall redact the process receipt and return forms so
20 that Jose M. Navarette's last known address is not made publicly available.
- 21 6. The USM shall file notice with the court, and serve the notice on Mr. Downing,
22 indicating whether each defendant was served.
- 23 7. If the USM is unable to serve any defendant and Mr. Downing wishes to have service
24 attempted again, Downing must timely file a motion specifying a more detailed name
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27 333 Las Vegas Boulevard South, Suite 2058
Las Vegas, NV 89101

28 ² With reasonable diligence, Downing can still meet the current service deadline of December 24, 2018.
Thus, the deadline will not be extended at this time.

1 and/or address for each defendant, or whether some other manner of service should be
2 attempted.

3 8. Downing must carefully review and strictly follow all other instructions stated in this
4 Order as well as the prior Orders (ECF Nos. 16, 40).

5 9. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the deadline to complete
6 service is **December 24, 2018**.

7 10. Mr. Downing must comply with this Order by completing service by **December 24,**
8 **2018. Failure to complete service by that date will result in a recommendation to**
9 **the district judge that any unserved defendant be dismissed without prejudice.**

10 Dated this 8th day of November 2018.

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12 
13 PEGGY A. LEEN
14 UNITED STATES MAGISTRATE JUDGE
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